

Message Text

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PAGE 01 LAGOS 00569 190822Z
ACTION L-01

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C O N F I D E N T I A L LAGOS 0569

LIMDIS

E.O. 11652: GDS
TAGS: PLOS, PBOR, PFOR, ICJ, CA, NI, US
SUBJECT: POSSIBLE CANADA-US ICJ SUBMISSION ON OFFSHORE BOUNDARY
QUESTION

REF: STATE 5301

1; REFTEL REQUESTED EMBASSY'S BEST JUDGEMENT OF HOW NIGERIAN
ICJ JUDGE ELIAS WGULD VIEW US-CANADIAN OFF-SHORE BOUNDARY
DISPUTE SHOULD IT BE SUBMITTED TO COURT FOR DECISION.
FOLLOWING ARE ANSWERS TO SPECIFIC QUESTIONS:

2. ELIAS' VIEWS ON LOS ISSUES: A FORMER COMMISSIONER FOR
JUSTICE AND ATTORNEY GENERAL OF NIGERIA, TASLIM O. ELIAS IS ONE
OF THE ARCHITECTS OF NIGERIA'S LOS POLICY. THEREFORE, HE CAN
BE EXPECTED HOLD VIEWS ON DELIMITATION AND OTHER LOS ISSUES
FAIRLY CLOSE TO THOSE ESPOUSED BY NIGERIAN GOVERNMENT. (REF.
LIMITES IN THE SEAS, NO. 36, NATOINAL CLAIMS TO MARITIME
JURISDICTIONS, 3RD REVISION, P. 143). IT IS DIFFICULT TO BE
MORE PRECISE ABOUT HIS PERSONAL VIEWS. IT MAY BE THAT
THERE ARE DEPARTMENT OFFICIERS WHO HAVE DISCUSSED DELIMITATION
WITH ELIAS IN PAST YEARS AT LOS SESSIONS AND WPO CAN
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PAGE 02 LAGOS 00569 190822Z

CONTRIBUTE USEFUL INSIGHTS IN THIS AREA.

3. DELIMITATION PROBLEMS WITH NEIGHBORING STATES: NIGERIA
HAS NO SERIOUS DELIMITATION PROBLEMS WITH NEIGHBORING STATES
ALTHOUGH THERE HAVE BEEN DISPUTES OVER FISHING RIGHTS ALONG
CROSS RIVER ESTUARY OF COUNTRY'S BORDER WITH CAMEROON WHICH
IS ALSO SITE OF LARGE OFFSHORE OIL DEPOSITS. (76 LAGOS 12873

NOTAL.) SUCCESSIVE NIGERIAN GOVERNMENTS HAVE ATTEMPTED DOWN-PLAY DIFFERENCES AND WORK OUT SATISFACTORY COMPROMISE SOLUTIONS ON A BILATERAL BASIS.

4. GENERAL LEGAL PHILOSOPHY: ELIAS IS CONSIDERED TO BE AN OUT-STANDING AFRICAN JURIST. A YORUBA MOSLEM, HE WAS EDUCATED IN UK (LONDON UNIVERSITY, CALLED TO THE BAR AT INNER TEMPLE IN 1947) BUT IS AN ADMIRER OF THE AMERICAN LEGAL SYSTEM. BRITISH SOURCES HAVE DESCRIBED HIM AS A GOOD ACADEMIC LAWYER BUT UNIMPRESSIVE IN COURT. SAME SOURCES CHARACTERIZE HIM AS ABLE BUT TOUCHY AND MUCH IMPRESSED WITH HIS OWN SELF IMPORTANCE AND GIVEN TO LENGTHY MONOLOGUES. HE IS A STICKLER FOR LEGAL TECHNICALITIES AND HAS A REPUTATION OF BEING A NIT-PICKER. AS A MEMBER OF THE UN CONSTITUTIONAL TEAM IN THE CONGO HE WAS CRITICIZED BY COLLEAGUES FOR LACK OF COOPERATION AND OBSTINANCY. FORMER AMBASSADOR REINHART FOUND HIM TO BE "ALL-WORK-AND-NO-PLAY" AND AMONG THE MOST FORTHCOMING, LITERATE AND WELL-DISPOSED OF UPPER-LEVEL NIGERIAN GOVERNMENT OFFICIALS WITH WHOM HE DEALT. AMBASSADOR REINHART MAY HAVE ADDITIONAL VIEWS ON ELIAS' CHARACTER AND PHILOSOPHY WHICH WOULD BE OF VALUE.

5. RELATIONSHIP WITH FOREIGN MINISTRY: ELIAS' PERSONAL RELATIONSHIP WITH CURRENT SET OF OFFICIALS IN NIGERIAN MINISTRY EXTERNAL AFFAIRS (MEA) IS NOT KNOWN. HE UNDOUBTEDLY KNOWS INDIVIDUALS THERE AS RESULT HIS PARTICIPATION IN LOS POLICY PLANNING AND HIS YEARS IN GOVERNMENT SERVICE. WE DO NOT BELIEVE THAT HE IS "ON THE OUTS" WITH MEA BUT NEITHER DO WE HAVE ANY REASON TO BELIEVE HE MAINTAINS REGULAR OR CLOSE CONTACT WITH THAT MINISTRY. AT SAME TIME WE ESTIMATE HE WOULD CONFIDENTIAL

CONFIDENTIAL

PAGE 03 LAGOS 00569 190822Z

HAVE READY ACCESS SHOULD HE WANT OR NEED IT.

6. RECAPTIVITY TO GUIDANCE FROM GOVERNMENT: AS NOTED IN EARLIER PARAGRAPH, ELIAS IS LIKELY TO BE AN ADHERENT OF NIGERIA'S LOS POSITIONS. BECAUSE OF HIS PAST CONNECTION WITH NIGERIAN LOS POLICY FORMULATION, IT IS POSSIBLE HE WOULD SEEK NIGERIAN VIEWS ON MATTERS DEALING WITH LOS ISSUES AS PART OF BACKGROUND INFORMATION ON WHICH HE WOULD BASE A DECISION IN U.S.-CANADIAN DISPUTE. HE WOULD PROBABLY LISTEN TO ANY VIEWS WHICH FMG MIGHT CONVEY TO HIM. HOWEVER, WE WOULD EXPECT HIM TO MAKE HIS FINAL DECISION ON BASIS HIS OWN INTERPRETATION OF THE LEGAL MERITS OF THE CASE. ALTHOUGH ELIAS WAS SACKED AS CHIEF JUSTICE BY THE MILITARY LEADERSHIP WHICH OVERTHREW GOWON ON THE BASIS OF ALLEGATIONS HE HAD SUCCEDED TO GOVERNMENT PRESSURE TO RULE IN FAVOR OF A STATE GOVERNOR CHARGED WITH CURRUPTION, THERE IS SOME QUESTION AS TO WHETHER OR NOT A MAJORITY OF THE RULING SUPREME MILITARY COUNCIL SUPPORTED THE ACTION. CERTAINLY THE FMG WORKED HARD TO MAKE AMENDS BY PUSHING FOR HIS ELECTION TO ICJ.

(SEE 75 LAGOS 8161 FOR DETAILS.)

7. HOW ELIAS WOULD VIEW DISPUTE BETWEEN U.S. AND CANADA:
WE BELIEVE THAT ELIAS AND FMG WOULD TEND TO LOOK AS A
DISPUTE BETWEEN U.S. AND CANADA OVER OFF-SHORE BOUNDARIES
IN IMPARTIAL MANNER. WHILE THERE MIGHT BE TEMPTATION
ON PART OF SOME FMG OFFICIALS TO ROOT FOR CANADA ON
BASIS OF PULLING FOR AN UNDERDOG, ELIAS (AND MAJORITY OF
FMG/LOS OFFICIALS) WOULD PROBABLY REACH HIS CONCLUSION ON
BASIS OF INTERPRETATION OF THE FACTS AND LEGAL PRECEDENTS
BROUGHT OUT IN ARGUMENTS BEFORE THE ICJ. ON THIS PARTICULAR
ISSUE WE DO NOT BELIEVE EITHER ELIAS OR FMG WOULD FAVOR
CANADIAN POSITION SOLELY ON BASIS OF CANADIAN RELATIONSHIP
WITH THIRD WORLD. RATHER, TENDENCY WOULD BE TO VIEW
DISPUTE AS ONE BETWEEN TWO DEVELOPED NATIONS AND NOT AS
DISPUTE BETWEEN DEVELOPING AND DEVELOPED WORLDS.

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PAGE 04 LAGOS 00569 190822Z

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